

## UNIVERSITY OF KANSAS.

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JUNE 16, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

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Mr. McEWAN, from the Committee on Claims, submitted the following

### REPORT.

[To accompany S. 2677.]

The Committee on Claims, to whom was referred the bill (S. 2677) for the relief of the University of Kansas, having carefully examined the evidence in the case and considered all the facts, beg leave to report as follows:

The present beneficiary of this bill, the University of Kansas, a Kansas corporation, is the assignee or transferee of the original claim for damages against the United States sustained by the New England Emigrant Aid Company, a Massachusetts corporation, in 1856.

This claim grew out of the early troubles in Kansas, preceding the late civil war, the material facts and circumstances in relation to it being substantially as follows: On the 21st day of May, 1856, the New England Emigrant Aid Company was the owner in fee of two lots on Massachusetts street, in the city of Lawrence, Kans., on which it had erected a large and well-constructed hotel, thoroughly furnished and equipped, and certain outbuildings. This hotel was three stories high, with a basement, and was known as the "Free State Hotel," or Eldridge House. It was said at the time to have been the finest hotel west of St. Louis, and, together with its furniture and the other buildings, was worth about \$25,000.

On the 5th day of May, 1856, the grand jury of Douglas County, Kans., made a presentment against this structure, in which it was set forth that the same was a nuisance and had "been constructed with a view to military occupation and defense, thereby endangering the public safety and encouraging rebellion and sedition in the country," and they thereby recommended that the nuisance be abated.

Thereupon, on the 21st day of May, 1856, a deputy United States marshal, claiming to act under the authority of the United States district court for the Territory, assembled a large posse and razed the structure to the ground, making it a total loss.

It seems to be clearly demonstrated that this action of the grand jury, on which the deputy United States marshal assumed to act, was unjustifiable, and the destruction of the property by positive and direct orders of the officers of the United States was therefore clearly unwarrantable.

The New England Emigrant Aid Company memorialized Congress several times on the subject and sought to have a reimbursement of the loss it had sustained, but not succeeding in its own right, and despairing of ever being able to secure anything for itself out of this claim, recently assigned the same to the present beneficiary of this bill.

In the light of all the facts, which are more elaborately set forth in a memorial of the University of Kansas and its exhibits, which is attached to this report as Exhibit A and made a part of it, and for the reason that the assignor was a nonresident of the Territory and could not have been guilty as charged of the offenses against the Government, and since the amount of this claim is but \$20,000, which is \$5,000 less than the value of the property destroyed, your committee are of opinion that the claim is a proper and just one for allowance by the United States, and therefore recommend that the bill as offered in the Senate do pass.

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### EXHIBIT A.

#### *A MEMORIAL OF THE UNIVERSITY OF KANSAS IN SUPPORT OF SENATE BILL NO. 2677.*

A MEMORIAL OF THE UNIVERSITY OF KANSAS, ASSIGNEE OF THE NEW ENGLAND EMIGRANT AID COMPANY, PRAYING INDEMNIFICATION FOR THE DESTRUCTION OF THE FREE STATE HOTEL AT LAWRENCE, KANSAS, ON THE 21ST DAY OF MAY, 1856, BY OFFICERS OF THE UNITED STATES.

*To the honorable Senate and House of Representatives in Congress assembled:*

Your memorialist respectfully represents the following material facts in support of its claim against the United States of America for the indemnity herein specified:

(1) The University of Kansas is a corporation duly organized and existing under and by virtue of the laws of the State of Kansas (see Exhibit A), created for the purpose of providing the inhabitants of the State with the means of acquiring a thorough knowledge of the various branches of literature, science, and the arts, and is the assignee of the New England Emigrant Aid Company.

(2) The New England Emigrant Aid Company is a corporation duly organized and existing by virtue of an act of the legislature of the Commonwealth of Massachusetts approved February 24, 1855. (See Exhibit B.)

(3) The said New England Aid Company, of which, at the time of the events recited in this memorial, John C. Brown, of Providence, Rhode Island, was president, and Thomas H. Webb, of Boston, was secretary, was on the 21st day of May, 1856, the owner in fee simple of lots Nos. 21 and 23, on Massachusetts street, in the city of Lawrence, State of Kansas (then Territory), as shown by the deed from the Lawrence Town Company to the said New England Emigrant Aid Company. (See Exhibit C.)

(4) On the said lots Nos. 21 and 23 on Massachusetts street, in the city of Lawrence, was located on the said 21st day of May, 1856, a hotel commonly known as the "Free State Hotel" or "Eldridge House," which was the property of the said New England Emigrant Aid Company.

(5) The value of said hotel on said day was twenty-five thousand dollars (\$25,000), apart from the value of the land and the equipment of the hotel, as shown by the books of the said corporation on file with the Historical Society of the State of Kansas, and also by affidavits of the secretary, Thos. H. Webb, and the commercial agent, Samuel C. Pomeroy, of said company, hereto appended. (See Exhibit D.)

(6) The said Free State Hotel was destroyed by bombardment and fire by Deputy United States Marshal Samuel J. Jones aided by a large posse, claiming to act as deputy United States marshal, and under the authority of the first district court of the United States for Kansas Territory, sitting at LeCompton, Kansas Territory, Samuel D. LeCompte, judge, on the said 21st day of May, 1856. (See Exhibit E.)

(7) The grand jury of Douglas County, Kansas Territory, for the adjourned term of the first district court, May, 1856, made a presentment on the 5th day of May, 1856, to the effect that "the building known as the Free State Hotel has been constructed with a view to military occupation and defense, thereby endangering the public safety and encouraging rebellion and sedition to the country, and we respectfully recommend that steps be taken whereby this nuisance be abated." (See Exhibit F.)

(8) The allegations of this presentment were false in fact, as testified by a large number of affidavits of men of unquestioned integrity. (See Exhibit G.)

(9) The posse which aided in the destruction of the said Free State Hotel was summoned by J. B. Donelson, marshal of the first district court of the United States for the Territory of Kansas, and taken to the city of Lawrence, and there, after the arrest of certain parties for whom the marshal claimed to have warrants, dismissed, and, by the same crier who announced the dismissal, resummoned in the name of the said Deputy United States Marshal Samuel J. Jones, who then proceeded to destroy the Free State Hotel as before stated. (See Exhibit E.)

(10) The said New England Emigrant Aid Company in due course of time presented its claim against the United States for the loss thus caused by the unwarranted and illegal acts of the officers of the United States. (See Doc. 29, Senate Miscellaneous Doc., 3d sess., 37th Cong.)

(11) It is to be noted that the claims for damages done at Lawrence on the 21st day of May, 1856, rest upon an entirely different basis from other damage claims of Kansas citizens for injuries and loss sustained during the Territorial period, and comprised in the report of the Committee of Claims of the House of Representatives for the 36th Congress.

All other claims are based on the alleged neglect of the Government of the United States to furnish the protection to its citizens, their lives and property, which it is held to be the duty of the Government to furnish. (See Exhibit H.)

The destruction of property at Lawrence on the 21st of May, 1856, of which the destruction of the Free State Hotel was a part, was done under the direction and command of an officer of the United States and claiming to act under the direction and order of a United States court. The action of the grand jury called by Judge LeCompte was of itself unwarranted by facts and unsupported by statutory or constitutional warrant.

It appears, therefore, that in the matter of other claims the United States is accused of neglect only of duties somewhat vaguely defined, while in the present case the injury was caused by the positive and direct acts of the officers of the United States.

(12) The claim of the said New England Emigrant Aid Company has never been paid, nor any compensation whatever made for the destruction of the company's property.

(13) The said New England Emigrant Aid Company did, by vote of its stockholders, on the 17th day of February, 1897, transfer to the University of Kansas, at Lawrence, Kansas, its claim for (\$25,000) twenty-five thousand dollars for the destruction of said Free State Hotel (See Exhibit I), and the said University of Kansas now prays for the allowance of said claim as just and unpaid.

F. H. SNOW,

*Chancellor of the University of Kansas.*

Dec. 20th, 1897.

#### EXHIBIT A.

[From the Revised Statutes of the State of Kansas for 1889.]

P. 392. Sec. 4. "The government of the university is vested in a board of seven regents, six of whom shall be appointed by the governor and confirmed by the senate, and whose term of office shall be four years."

Sec. 6. "The board of regents shall be a body corporate, under the name of 'The Regents of the University of Kansas,' and as such may sue and be sued, make contracts, and hold and transfer property, both real and personal, for the university."

Sec. 8. "The regents shall elect a chancellor, who shall be the chief officer of the university, the head of each department thereof, and president of the board of regents, with full power of a regent, whose duties and powers otherwise than prescribed in this act shall be prescribed by the board of regents."

## EXHIBIT B.

(No. 29, Senate Miscellaneous Documents, 37th Congress, 3d session, p. 4.)

Certified copy of the New England Emigrant Aid Company's Charter:

## COMMONWEALTH OF MASSACHUSETTS.

In the year one thousand eight hundred and fifty-five.

AN ACT To incorporate the New England Emigrant Aid Company.

SECTION 1. *Be it enacted by the Senate and House of Representatives, in general court assembled, and by the authority of the same, as follows:* Eli Thayer, Amos A. Lawrence, John M. S. Williams, and Thomas H. Webb, their associates, successors, and assigns, are hereby made a corporation by the name of the New England Emigrant Aid Company, for the purpose of directing emigration westward, and aiding and providing accommodations for the emigrants after arriving at their places of destination; and for these purposes they have all the powers and privileges, and are subject to all the duties, restrictions, and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.

SEC. 2. The capital stock of said corporation shall not exceed one million dollars; said capital stock may be invested in real and personal estate: *Provided*, The said corporation shall not hold real estate in this Commonwealth to an amount exceeding twenty thousand dollars.

SEC. 3. This act shall take effect from and after its passage.

HOUSE OF REPRESENTATIVES, Feb. 16, '55.

Passed to be enacted.

DANIEL C. EDDY, *Speaker*.

IN SENATE, February 17, 1855.

Passed to be enacted.

HENRY W. BENCHLEY, *President*.

Approved.

HENRY J. GARDNER.

SECRETARY'S OFFICE, Boston, Feb. 12, 1863.

A true copy of the original act.

Attest:

OLIVER WARNER,  
*Secretary of the Commonwealth.*

## EXHIBIT C.

(Book B, pp. 436-439, old city books, in the office of the register of deeds of Douglas County, Kansas.)

This indenture, made this seventh day of July, A. D. 1855, between Samuel S. Snyder, Joel Grover, John P. Wood, William H. R. Lykins, and George W. Hutchinson, trustees of the town site of Lawrence, Kansas Territory, parties of the first part, and the New England Emigrant Aid Society or their trustees or agents in trust for the same, parties of the second part,

Witnesseth: That in compliance with the provisions contained in the deed of trust from one William H. R. Lykins to the above trustees, creating said trustees, and in consideration of the sum of one and  $\frac{90}{100}$  dollars in hand paid, by said Emig. Aid Society, as above, of said town and Territory, have conveyed, released, and quitclaimed, and by these presents do convey, release, and quitclaim, unto the said party of the second part, his heirs and assigns, all right, title, and interest in and to certain lots and land situated and being in Lawrence, First council district, Kansas Territory, and designated on the lithographed chart as surveyed by A. D. Searl, October, 1854, as follows, to wit:

Shares thirty-five (35), seventy-five (75), eighty-five (85), ninety (90), one hundred and forty-two (142), one hundred and forty-five (145), one hundred and fifty-seven (157), one hundred and seventy one (171), one hundred and seventy-two (172), one hundred and eighty-one (181), and lots as follows: \* \* \* Massachusetts street, seventeen (17), twenty-one (21), twenty-three (23), \* \* \* aforesaid quit-claimed premises, with all the privileges and appurtenances thereto belonging, unto the said party of the second part, so that neither we, the said trustees, our heirs or succes-



sors, or any person claiming by, from, or under us or them, shall have any right, title, or interest, claim or demand in or to the aforesaid premises, or any part thereof, and we hereby covenant and agree to warrant and defend against all persons claiming any right, title, or interest under the said trustees, their heirs or successors; and further this indenture witnesseth that the said Samuel S. Snyder, Joel Grover, John P. Wood, William H. R. Lykins, and George W. Hutchinson and their successors, are held and firmly bound unto the said New England Emigrant Aid Society in the sum of one hundred thousand dollars, to be paid unto the said New England Emigrant Aid Society, their successors or assigns, to which payment well and truly to be made we bind ourselves and our successors by these presents:

Now, the condition of this obligation is such that if, upon the payment by said party of the second part of all the taxes lawfully assessed upon the aforesaid premises, the said parties of the first part or their successors shall make and deliver unto the said party of the second part, his heirs or assigns a good and valid deed with the usual covenants for conveyance in fee simple whenever a patent for the town site of Lawrence shall issue from Congress unto Robert Robittaille, or William H. R. Lykins, and be conveyed unto the aforesaid trustees, then this obligation shall be void and of no effect, otherwise to remain in full force.

In testimony whereof we have hereunto set our hands and seals this 7th day of July, A. D. 1855.

SAMUEL S. SNYDER.  
JOHN P. WOOD.  
GEO. W. HUTCHINSON.  
WILLIAM H. R. LYKINS.  
JOEL GROVER.

Signed, sealed, and delivered in the presence of, as witnesses:

GEO. W. DEITZLER.  
N. ALLEN.

Received for record Jan'y. 10. 1857.

E. D. LADD, *Reg.*

#### EXHIBIT D.

(No. 29, Senate Miscellaneous Documents, 3d session 37th Congress, pp. 2, 3, 18, 21, 27.)

Testimony of Th. H. Webb, secy. of the N. E. E. A. Co.:

"Representations of the want in this particular being made to the company by its agents, and solicitations being forwarded, that the need might be supplied, the company was at length induced to erect in Lawrence, at an expense of twenty-five thousand dollars (\$25,000), a hotel known as the Free State Hotel, and sometimes as the Eldridge House. This was a commodious, substantially built, stone structure, in dimensions fifty by seventy feet, three stories high, and a basement. It was fitted and furnished in a superior style, the furniture and equipments being of a character corresponding to those of some of the best Eastern hotels. Attached to it were stables and other conveniences. In a word, it was pronounced by good judges the best hotel west of St. Louis. This was completed in May, 1856."

Affidavit of S. W. Eldridge (p. 18):

"That in the year 1855, through the representations of myself and others, the New England Emigrant Aid Company was induced to erect in said Lawrence a large, commodious, and well-finished hotel, at an estimated cost of twenty-five thousand dollars, suited to the wants of the traveling public, and embracing the ordinary conveniences of hotels in the Eastern cities—such a hotel being then imperatively required by the influx of strangers and immigrants, there not being sufficient accommodations anywhere within Kansas."

Affidavit of Samuel C. Pomeroy, p. 21:

"There were at this time no public houses in Kansas, and such was, in consequence, the pressing need of accommodations of the kind—more especially in Lawrence, whither most first directed their steps preparatory to casting about for acceptable farm claims—that I urged upon the company the importance, indeed, necessity, of erecting a hotel there. This I was authorized to have built, and I assisted in making the necessary contracts with masons, carpenters, etc., and the work was commenced in the summer of 1855. Many vexatious delays were occasioned and annoyances experienced by the spirit of opposition widely outspread, so that the labor was not finished until the spring of 1856. This was a commodious stone structure, eligibly situated and admirably planned for the comfort and convenience of wayfarers. It was in dimensions 50 by 75 feet, three stories high, exclusive of a basement, and fitted and furnished at great expense. It had adjoining stables and

other suitable outbuildings. It was superior to any establishment of the kind west of St. Louis. It was constructed throughout in a thorough, workmanlike manner. All bills were examined and paid by me, and the amount thus expended, not including any estimate of the value of the lots occupied as the site, was twenty-five thousand dollars, which sum, I think, is justly due the company for its loss."

(No. 29, Senate Miscellaneous Documents, 37th Congress, 3d session, p. 27.)

**Affidavit of Wm. Hutchinson:**

"Noon came, and Colonel Eldridge, who was then keeping the Free State Hotel as a public house, invited several of these officers to dine with him. Among these were Marshal Donelson, Deputy Marshal Jones, ex-Vice-President Atchison, Colonel Titus, a Major Jackson, of Georgia, Dr. Roderigue, who were all of the posse and forces assembled against Lawrence at the command of Marshal Donelson. These I saw partake of a free dinner, with wine and other liquors furnished in abundance. This was the first opening of the hotel to the public, but Colonel Eldridge, with his family, had been in it about a month getting together supplies for the tables and furniture for the rooms as fast as possible, and it was understood then that this preparation was about over. This hotel had been built during that spring and the previous year by the New England Emigrant Aid Company at a heavy cost, as everything bore exorbitant prices there then. Pine lumber was all transported from St. Louis, and sometimes cost, delivered in Lawrence, ninety and one hundred dollars per thousand. I was building a large store the same year and know the inconveniences and expense attending it. This hotel must have cost in the vicinity of twenty-five thousand dollars. It was elegantly furnished, the furniture, equipments, and contents being abundant, of the first quality, and equal to those of the first hotels in the Eastern States."

**EXHIBIT E.**

[Memorial of O. E. Learnard and others to President Pierce, May 22nd, 1856, in Kansas Claims, p. 29 ff., and also p. 76 ff.]

**MEMORIAL TO THE PRESIDENT FROM INHABITANTS OF KANSAS.**

*To his Excellency Franklin Pierce, President of the United States.*

SIR: The undersigned, residents of Kansas Territory, and a committee of the citizens of the town of Lawrence and vicinity, appointed to represent to your excellency the insufferable wrongs which they are called upon to endure at the hands of Territorial officials, and to petition for redress and prevention of the same.

The statements made in this communication are of facts mostly within our personal knowledge, and all of them we are prepared at any time to substantiate by testimony conclusive and unimpeachable.

The first of the recent great outrages on the town of Lawrence of which we complain is the following proclamation of the United States marshal of Kansas Territory:

**PROCLAMATION.**

*To the people of Kansas Territory:*

Whereas certain judicial writs of arrest have been directed to me by the first district court of the United States, etc., to be executed within the county of Douglas; and whereas an attempt to execute them by the United States deputy marshal was violently resisted by a large number of citizens of Lawrence; and as there is every reason to believe that any attempt to execute these writs will be resisted by a large body of armed men:

Now, therefore, the law-abiding citizens of the Territory are commanded to be and appear at Leecompton as soon as practicable, and in numbers sufficient for the proper execution of the law.

Given under my hand this 11th day of May, 1856.

J. B. DONELSON,  
United States Marshal for Kansas Territory.

The allegations contained in this proclamation are untrue in fact, as well as grossly unjust in effect to the people of Lawrence.

A demonstration has been made by the deputy marshal toward the arrest of ex-Governor Reeder while here in attendance on the Congressional committee; but as the latter demurred to the legality of the process and denied the jurisdiction, the attempt was not made. This was a circumstance involving no violence on the part

of the citizens of Lawrence. As no posse was called for by the official, it is clear that they can in no way be held accountable for any of its results.

No actual effort to arrest any person in Lawrence had been made by the marshal previous to this proclamation.

At this time there were in the Territory many hundreds of men who had entered it in organized companies from Southern States, actuated by an avowed political purpose, and proclaiming a deadly hostility to the town of Lawrence. These men were immediately enrolled in the marshal's posse, and supplied by the governor with arms belonging to the United States and intended for the use of the Territorial militia. All the facts warrant the belief that it was the intention of the marshal, by this proclamation, to justify this misuse of these national arms, and to give, as far as possible, to the outrages being perpetrated by these companies the sacred sanction of the law. Without this sanction it was known that these outrages would be resisted by any and all means of defence in the power of an indignant and not yet enslaved people. This posse of the marshal was further increased by accessions from the neighboring State of Missouri, and supplied from the same source with several pieces of artillery. Camps were formed at different points along the highways and on the Kansas River, and peaceful travelers subjected to detention, robbery, and insult. Men were stopped in the streets and on the open prairie, and bidden to stand and deliver their purses at the peril of their lives. Cattle, provisions, arms, and other property were taken wherever found without consent of the owners. Men were choked from their horses, which were seized by the marauders, and houses were broken open and pillaged of their contents.

In the meantime these alarming demonstrations had excited apprehensions in the community, and a letter was sent to the governor, as follows:

LAWRENCE CITY, May 11, 1856.

DEAR SIR: The undersigned are charged with the duty of communicating to your excellency the following preamble and resolutions adopted at a public meeting of the citizens of this place at 7 o'clock last evening, viz:

Whereas we have the most reliable information from various parts of the Territory and the adjoining State of Missouri of the organization of guerilla bands, who threaten the destruction of our town and its citizens: Therefore,

*Resolved*, That Messrs. Topliff, Hutchinson, and Roberts constitute a committee to inform his excellency Governor Shannon of these facts, and to call upon him, in the name of the people of Lawrence, for protection against such bands by the United States troops at his disposal.

All of which is respectfully submitted.

Very truly, etc.,

C. W. TOPLIFF.  
W. Y. ROBERTS.  
JOHN HUTCHINSON.

His Excellency WILSON SHANNON,  
*Governor of Kansas Territory.*

This letter drew forth the following reply:

EXECUTIVE OFFICE, LECOMPTON, K. T.,  
May 12, 1856.

GENTLEMEN: Your note of the 11th instant is received, and in reply I have to state that there is no force around or approaching Lawrence, except the legally constituted posse of the United States marshal and sheriff of Douglas County, each of whom, I am informed, have a number of writs in their hands for execution against persons now in Lawrence. I shall, in no way, interfere with either of these officers in the discharge of their official duties.

If the citizens of Lawrence submit themselves to the Territorial laws, and aid and assist the marshal and sheriff in the execution of process in their hands, as all good citizens are bound to do when called on, they, or all such, will entitle themselves to the protection of the law. But so long as they keep up a military or armed organization to resist the Territorial laws and the officers charged with their execution, I shall not interpose to save them from the legitimate consequences of their illegal acts.

I have the honor to be, yours, with great respect.

WILSON SHANNON.

Messrs. C. W. TOPLIFF, JOHN HUTCHINSON, W. Y. ROBERTS.

In comment upon this letter we have only to say that the implied charge upon the citizens of Lawrence of keeping up "a military or armed organization to resist the Territorial laws and the officers charged with their execution," is utterly untrue, and that Governor Shannon must have been fully aware of its falsity or ignorant to a degree of criminality.

The proclamation of the marshal was not made public by him in Lawrence, but a copy having by chance reached the town, another meeting of citizens was called on the 13th of May, and the following preamble and resolution adopted:

"Whereas, by a proclamation to the people of Kansas Territory, by J. B. Donelson, United States marshal for said Territory, issued the 11th day of May, 1856, it is alleged that certain 'judicial writs of arrest have been directed to him by the First district court of the United States, etc., to be executed within the county of Douglas, and that an attempt to execute them by the United States deputy marshal was violently resisted by a large number of the citizens of Lawrence, and that there is every reason to believe that any attempt to execute these writs will be resisted by a large body of armed men:' Therefore,

"Resolved, By this public meeting of the citizens of Lawrence, held this 13th day of May, 1856, that the allegations and charges against us, contained in the aforesaid proclamation, are wholly untrue in fact, and the conclusion entirely false which is drawn therefrom. The aforesaid deputy marshal was resisted in no matter whatsoever, nor by any person whatever, in the execution of said writs, except by him whose arrest the said deputy marshal was seeking to make. And that we now, as we have done heretofore, declare our willingness and determination, without resistance, to acquiesce in the service upon us of any judicial writs against us by the United States marshal for Kansas Territory, and will furnish him a posse for that purpose, if so requested; but that we are ready to resist, if need be unto death, the ravages and desolation of an invading mob.

"J. A. WAKEFIELD, *President.*

"JOHN HUTCHINSON, *Secretary.*"

The indications of an intended attack upon the town continuing to increase, on the 14th instant another meeting of citizens was called, of which G. W. Deitzler was president and J. H. Green secretary, and the following letter prepared and sent to the United States marshal:

LAWRENCE, May 14, 1856.

DEAR SIR: We have seen a proclamation issued by yourself, dated 11th day of May, and also have reliable information this morning that large bodies of armed men, in pursuance of your proclamation, have assembled in the vicinity of Lawrence.

That there may be no misunderstanding, we beg leave to ask, respectfully, that we may be reliably informed what are the demands against us. We desire to state most truthfully and earnestly that no opposition whatever will now, or at any future time, be offered to the execution of any legal process by yourself or any person acting for you. We also pledge ourselves to assist you, if called upon, in the execution of any legal process.

We declare ourselves to be order-loving and law-abiding citizens, and only await an opportunity to testify our fidelity to the laws of the country, the Constitution, and the Union.

We are informed, also, that those men collecting about Lawrence openly declare that their intention is to destroy the town and drive off the citizens. Of course we do not believe that you give any countenance to such threats; but, in view of the exciting state of the public mind, we ask protection of the constituted authorities of the Government, declaring ourselves in readiness to cooperate with them for the maintenance of the peace, order, and quiet of the community in which we live.

Very respectfully,

ROBERT MORROW.  
LYMAN ALLEN.  
JNO. HUTCHINSON.

J. B. DONELSON,  
*United States Marshal for Kansas Territory.*

The following reply was received to this communication:

OFFICE OF THE UNITED STATES MARSHAL,  
Leocompton, K. T., May 15, 1856.

On yesterday I received a communication addressed to me, signed by one of you as president and the other as secretary, purporting to have been adopted by a meeting of the citizens of Lawrence held on yesterday morning. After speaking of a proclamation issued by myself, you state "that there may be no misunderstanding, we beg leave to ask, respectfully, what are the demands against us? We desire most truthfully and earnestly to declare that no opposition whatever will now, or at any future time, be offered to the execution of any legal process by yourself or any person acting for you. We also pledge to assist you, if called upon, in the execution of any legal process," etc.

From your professed ignorance of the demands against you, I must conclude that you are strangers, and not citizens of Lawrence, of recent date, or been absent for some time; more particularly when an attempt was made by my deputy to execute



the process of the first district court of the United States for Kansas Territory against ex-Governor Reeder, when he made a speech in the room and in the presence of the Congressional committee, and denied the authority and power of said court, and threatened the life of said deputy if he attempted to execute said process; which speech and defiant threats were loudly applauded by some one or two hundred of the citizens of Lawrence, who had assembled at the room on learning the business of the marshal, and made such hostile demonstrations that the deputy thought he and his small posse would endanger their lives in executing said process.

Your declarations that you "will truthfully and earnestly offer no opposition now, or at any future time, to the execution of any legal process, etc., is, indeed, difficult to understand. May I ask, gentlemen, what has produced this wonderful change in the minds of the people of Lawrence? Have their eyes been suddenly opened so that they are now able to see that there are laws in force in Kansas Territory which should be obeyed? Or is it that just now those for whom I have writs have sought refuge elsewhere? Or it may possibly be that you now, as heretofore, expect to screen yourselves behind the word "legal," so significantly used by you. How am I to rely on your pledges when I am well aware that the whole population of Lawrence is armed and drilled and the town fortified—when I recollect the meetings and resolutions adopted in Lawrence, and elsewhere in the Territory, openly defying the laws and officers thereof, and threatening to resist the same to a bloody issue, and recently verified in the attempted assassination of Sheriff Jones while in the discharge of his official duties in Lawrence? Are you strangers to all these things? Surely you must be strangers at Lawrence! If no outrages have been committed by the citizens of Lawrence against the laws of the land they need not fear any posse of mine. But I must take the liberty of executing all processes in my hands, as the United States marshal, in my own time and manner, and shall only use such power as is authorized by law. You say you call upon the constituted authority of the Government for protection. This, indeed, sounds strange, coming from a large body of men armed with Sharps rifles and other implements of war, bound together by oaths and pledges to resist the laws of the Government they call on for protection. All persons in Kansas Territory, without regard to location, who honestly submit to the constituted authorities, will ever find me ready to aid in protecting them; and all who seek to resist the laws of the land and turn traitors to their country will find me aiding in enforcing the laws, if not as an officer as a citizen.

Respectfully, yours,

J. B. DONELSON,

*United States Marshal for Kansas Territory.*

MESSRS. G. W. DEITZLER and J. H. GREEN,  
*Lawrence, K. T.:*

We should consider this letter entirely unworthy of criticism, were it not official. Its chief misstatements, however, must be corrected, and of these we shall notice the following:

1. That ex-Governor Reeder threatened the life of the marshal, and was applauded therefor by the people of Lawrence; the fact being that the words used by the former can only by a forced construction be made to imply a threat against the person of the officer; and that the deputy marshal had no personal fear of the citizens is proven by the fact that he frequently, during these difficulties, entered the town, and remained during his pleasure without molestation or insult.

2. His reiteration of the falsehoods that the whole population of Lawrence is armed and drilled, and the town fortified, while he possessed evidence, through his deputies, that such was not the case. That the so-called fortifications, as there existing, were not considered formidable for defense, is proven by his subsequent neglect to demolish them while the town was in the hands of his posse.

3. His wanton misapplication of certain resolutions passed at some other point in the Territory, and having no relation to the officers of the United States.

4. His effort to fasten the attempt on the life of Samuel J. Jones on the citizens of Lawrence, when it is a known fact that said citizens denounced that attempt in a most emphatic manner, and made all practicable effort to detect its author.

5. The compound falsehood that the citizens of Lawrence are a large body of men armed with Sharps rifles, bound together by oaths and pledges to resist the laws of the Government they call on for protection, it being undoubtedly well known to himself that no such oaths or pledges exist, and that the citizens of Lawrence have never combined to resist the laws of the United States.

From a reply thus disingenuous and partisan in character the threatened town could derive no hope. Nevertheless, as the movements of the marauding forces grew daily more menacing in their character, the following letter was sent to the marshal on the 17th instant:

DEAR SIR: We desire to call your attention, as citizens of Kansas, to the fact that a large force of armed men have collected in the vicinity of Lawrence, and are

engaged in committing depredations upon our citizens, stopping wagons, arresting, threatening, and robbing unoffending travelers upon the highway, breaking open boxes of merchandise and appropriating their contents, have slaughtered cattle, and terrified many of the women and children.

We have also learned from Governor Shannon that there are no armed forces in the vicinity of this place but the regularly constituted militia of the Territory. This is to ask you if you recognize them as your posse and feel responsible for their acts. If you do not, we hope and trust you will prevent a repetition of such acts and give peace to the settlers.

On behalf of the citizens.

C. W. BABCOCK.  
LYMAN ALLEN.  
J. A. PERRY.

J. B. DONELSON,  
*United States Marshal, Kansas Territory.*

To this letter no reply was vouchsafed. The same day a communication was sent to the governor by Messrs. S. W. and T. B. Eldridge, proprietors of the Eldridge House, asking for it protection against the destruction threatened by the mob in the marshal's posse. The building itself was the property of the Emigrant Aid Company, but it had been furnished by the Messrs. Eldridge at heavy expense, and had not yet been opened as a public house. A verbal reply was returned by the governor to this appeal, expressing regret that the proprietors had taken possession, and giving some encouragement for its protection. On the 18th he was visited by the Messrs. Eldridge in person, and a full and truthful representation made of all the facts in the case. At this interview the governor, as well as the marshal, seemed disposed to accord the protection needful. In addition to their own personal appeal, the Messrs. Eldridge presented a communication from the citizens of Lawrence, as follows:

LAWRENCE, K. T., May 17, 1856.

GENTLEMEN: Having learned that your reason for assembling so large a force in the vicinity of our town to act as a posse in the enforcement of the laws rests on the supposition that we are armed against the laws and the officers in the exercise of their duties, we would say that we hold our arms only for our own individual defence against violence, and not against the laws or the officers in the execution of the same; therefore, having no further use for them when our protection is otherwise secured, we propose to deliver our arms to Colonel Sumner so soon as he shall quarter in our town a body of troops sufficient for our protection, to be retained by him so long as such force shall remain among us.

Very truly, etc.,

MANY CITIZENS.

His Excellency WILSON SHANNON, Governor, and J. B. DONELSON, Esq., U. S. Marshal for Kansas Territory.

Both the governor and the marshal expressed satisfaction with this proposition, and agreed to its terms in case a demand should be enforced for the surrender of the arms. If no resistance was offered his force, the marshal gave a positive promise of protection to the property of the citizens. But it was said that a portion of the posse was clamorous for the destruction of the hotel and the printing offices, and the Messrs. Eldridge were invited to return again on the following day, after time had been afforded for consultation with the captains of the companies.

It was now hoped that the crisis had passed. On summoning on his posse the proprietors of the Eldridge House, Deputy Marshal Fane had renewed his promise to protect their property. The officials had been treated with every courtesy, and even a generous hospitality. But about three o'clock the streets were filled by a company of armed horsemen, headed by Samuel J. Jones, sheriff of Douglas County, who drew up his force in front of the Eldridge House and demanded of the citizens, in the name of the law, the surrender of their rifles and cannon. He gave five minutes for a reply. He was answered by General Pomeroy that the cannon, and all rifles not personal property (if any such there were), would be given up on his giving an official receipt for the same. General Pomeroy and General Roberts proceeded with him to assist in their delivery. This done, it was announced that the printing offices and the Eldridge House must be destroyed. Remonstrance was in vain.

In the meantime the remainder of the force, comprising several hundred men, with United States muskets and fixed bayonets, were taking position in the town. Men endeavored by argument, and women by tears, to alter the determination of Jones, but in vain. At 3.15 o'clock he announced to Messrs. Eldridge that he would give them till 5 to remove their families and furniture from the house. The work of pillage had already commenced; the contents of the printing offices were scattered in the streets, and the red flag planted on the roof, first of the office of the Herald of Freedom, and afterwards of the Eldridge House. The family of Mr. G. W. Brown

were driven from their home, and the immediate pillage of the hotel prevented only by the resolute interference of a few citizens, aided by some individuals of the mob, who kept a strict guard at the doors, and insisted that the families of the proprietors should have the promised time in which to collect their most necessary effects and leave.

At last the cannon was placed and ready, and it was announced to Col. S. W. Eldridge that the bombardment would commence in five minutes. His wife and children, and such personal effects as they had been able to collect, were placed in carriages and driven off between files of United States bayonets, and amidst the yells of the impatient mob. As they left the town the first boom of a cannon told that the work of destruction had begun. Soon (as the impression made by cannon was not great) the building was fired, and with the aid of gunpowder reduced, with its furniture and stores, to a pile of ruins.

To evade the pledge given by the marshal that he would not allow his posse to enter Lawrence, they were disbanded by him, after the arrests were made, and enrolled as a sheriff's posse by Samuel J. Jones; the marshal thus keeping one pledge at the expense of another. On the next day they were again enrolled as the posse of the marshal.

We have thus given an outline of the events which have concluded an unparalleled chapter in the history of our country. That we have dealt mildly with the facts, and fallen short of the real atrocity of the case, will be proven by the testimony, which, in due time, public opinion will not fail to gather. So gigantic is that official villainy of which we are being made the victims that the understanding almost refuses to believe the evidence, however strong. That any set of men in a representative government like ours can be so reckless, and so defiant of right, as to attempt the administration of law on principles of perjury and brigandage is a combination of fatuity and corruption almost passing belief. Yet the facts spring out with startling boldness on the picture of events, and we see the spectacle of rulers utterly ignoring the oaths they have taken, and perverting the beneficent power of government to the base uses of a ruthless despotism—at will despoiling men of their property and lives—endeavoring to bind fast the hands of the loyal citizens who look to them for protection, and to deliver them over as bondmen to an invading force.

We can not but feel that you will be slow to believe such facts as we have stated here, and for the credit of humanity we can not otherwise hope; yet we cherish the trust that you will heed the voice, however feeble, that pours its complaint into your ear, and exert the influence of your office to prevent the possible occurrence of abuses of power on the part of those officials who are directly responsible to you for the faithful discharge of their duties; and to institute such a scrutiny into their past conduct as will reveal its true character and inspire a salutary caution in future. In making such a scrutiny it seems to us inevitable that the communications of the Territorial officers of Kansas, as given in this memorial, coupled with the undisputed facts resulting from their action, will show at least a criminal disregard of good faith sufficient of itself to prove their unfitness for the responsibilities they have assumed. And in the meantime we have been driven to the appointment of a committee of protection whose duty it will be to organize and use all means for the defence of our liberty and property during such time as we are unable to procure protection from the Government under which we live.

As regards the pecuniary damage sustained by this community at the hand of the Government, as administered by these officials, we can not doubt but you will see the justice of our claim, and employ the influence of your position to procure for us an adequate compensation. The readiest way to do this would seem to be by an appropriation by Congress, which it is within your province to recommend. It is at present impossible to estimate this damage, as new depredations are continually being made. How long these will be permitted to continue will depend to a great extent upon the pleasure of our rulers. But it is certain that the amount is, even at present, for a community like ours, very great. The loss to the proprietors of the Eldridge House alone is to nearly the full extent of their investments, time being denied them to remove any material portion of the costly furniture and abundant stores provided for its use. The destruction of the printing offices, like that of the hotel, involves not only the cost of the property, but the complete ruin of the business in which it was employed. And then there is scarcely a freeholder in Lawrence, or for many miles around, but has had costly experience of that predatory action which the marshal in his proclamation has called "the proper execution of the law."

O. E. LEARNARD.  
J. M. WINCHELL.  
LYMAN ALLEN.  
S. B. PRENTISS.  
L. G. HINE.

JOSEPH CRACKLIN.  
JOHN A. PERRY.  
S. W. ELDRIDGE.  
C. W. BABCOCK.

LAWRENCE, K. T., May 22, 1856.

## EXHIBIT F.

See Kansas Claims, Vol. 3, part 1, 2d Session 36th Congress, p. 28.

"The grand jury, sitting for the adjourned term of the first district court in and for the county of Douglas, in the Territory of Kansas, beg leave to report to the honorable court that, from evidence laid before them, showing that the newspaper known as the Herald of Freedom, published at the town of Lawrence, has, from time to time, issued publications of the most inflammatory and seditious character, denying the legality of the Territorial authorities, addressing and commanding forcible resistance to the same, demoralizing the popular mind, and rendering life and property unsafe, even to the extent of advising assassination as a last resort.

"Also, that the paper known as The Kansas Free State has been similarly engaged, and has recently reported the resolutions of a public meeting in Johnson County, in this Territory, in which resistance to the Territorial laws, even unto blood, has been agreed upon; and that we respectfully recommend their abatement as a nuisance. Also, that we are satisfied that the building known as the Free State Hotel, in Lawrence, has been constructed with a view to military occupation and defence, regularly parapetted and portholed for the use of cannon and small arms, and could have only been designed as a stronghold of resistance to law, thereby endangering the public safety, and encouraging rebellion and sedition in this country, and respectfully recommend that steps be taken whereby the nuisance may be removed.

"OWEN C. STEWART, *Foreman.*"

## EXHIBIT G.

See Exhibit "E," and, in addition, the following:

[From affidavit of Wm. Hutchinson, No. 29 Senate Mis. Doc., 37th Congress, 3d session, p. 28.]

"The hotel was built of stone, laid up in what is called concrete form, with walls from one foot to two feet thick. It was not intended as a fortification, nor built like a fort, any more than an ordinary house. It had no portholes or rifle embrasures. It was to have been completed by the fall of 1855, but the war difficulties prevented its completion until the next spring. It was three stories high, besides a basement under the whole, and the size was 50 by 75 feet.

"WM. HUTCHINSON."

## EXHIBIT H.

See report of Com. on Claims, House of Rep., 36th Congress, 2d session, vol. 3, Part I, p. 78-9.

"If the circumstances under which these losses took place, as shown by the evidence, does not bring them clearly under the operation of principles before stated as creating an obligation for indemnity from Government, it would seem impossible to conceive of a case that would.

"The only remaining question for consideration is whether the Federal Government is the proper source from which these claimants should look for indemnity. The Federal Government has, from its inception, claimed and exercised the right to govern the Territories. In the organic law of Kansas, Congress has limited and defined the scope and powers of its legislature, and qualified it by giving the governor the veto power. Its executive and judicial officers are appointed by the President, by and with the advice and consent of the Senate. The people have no voice in their selection and no power to control their action. They can neither compel them to discharge their duties nor prevent the abuse of the powers lodged in their hands, or remove them for inefficiency or malfeasance. It would seem that a simple statement of these facts was a sufficient answer to this question.

"The Government has power to appoint, control, or remove the officers on whom the people depend for protection or compel them to do their duty, and on failing to exercise this power, and thus render life and property secure, it would seem perfectly clear that it is the duty of the Government to indemnify the parties suffering from this neglect. In view of all the facts and circumstances, it would seem impossible to imagine a case where citizens would have a stronger ground for an appeal to their Government for redress or a clearer right to indemnity.

"It is undoubtedly the duty of the citizens to make known to the proper authorities threatened danger to their rights when they have cause to apprehend danger, so that the officers of Government may use their powers for protection. This the people of Kansas have not neglected. They have repeatedly appealed to the Government officers in the Territory, and invoked the interposition of the military forces



stationed there for their protection; presented their grievances to the President, to Congress, and finally to their fellow-citizens throughout the United States; and having failed to secure protection, they now appeal to Congress, as a last resort, for indemnity for losses which they have suffered. They do not ask Congress to restore to life those murdered friends and relatives. That is beyond their power to grant. Neither do they ask compensation for time lost, damage sustained by interruption to their business, or money expended in their own defense, but simply that Congress will restore to them the property of which they have been deprived through the failure of their Government to extend to them that protection which they had a right to claim."

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## EXHIBIT I.

An adjourned meeting of the stockholders of the New England Emigrant Aid Company was held at room 626, 3 Hamilton place, Boston, on Wednesday, February 17, 1897, at eleven o'clock a. m. There were 256 shares of stock represented, being the following:

Edward E. Hale, representing one share; representing also the stock of William Ropes, 25 shares; also the stock of Amos Lawrence, 90 shares. John A. Higginson, representing 15 shares; representing also the stock of John Carter Brown, 125 shares.

Upon motion it was unanimously *voted*: That Edward E. Hale and John A. Higginson be a committee to transfer to the University of Kansas all our property, including a claim upon the Government of the United States for the destruction, under the orders of the United States, of our hotel in Lawrence, in May, 1856.

The meeting then adjourned.

M. D. ADAMS, *Secretary pro tem.*

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